IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 4060 of 2006
Date of decision : 20.11.2006.

Krishan Lal alias Krishan Kuimar.

.....Appellant.

Versus

Rohtas Kumar and another.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. Mahavir Sandhu,Advocate
for the appellant.

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VINOD K. SHARMA,J.(ORAL)

Present regular second appeal has been filed against the judgment and decree passed by the learned Courts below vide which the suit filed by the plaintiff-respondent No.1 for declaration and mandatory injunction for possession has been decreed.

The learned Courts below have recorded a concurrent findings of fact that the property in dispute was purchased by the plaintiff-respondent No.1 by way of registered sale deed on 24.4.1995. However, due to involvement of the plaintiff in a criminal case and by taking undue advantage of his absence the property was again sold to the appellant-respondent on 20.3.1997.

The learned counsel for the appellant contends that the findings of the learned Courts below cannot be sustained as the suit for declaration without claiming consequential relief of possession was not maintainable. In support of this contention learned counsel for the appellant has relied upon

the judgment of this Court in the case of ***Jeeto Vs. Santa Singh 2006(2) RCR (Civil) 547*** . However, the said authority does not apply to the facts of the present case as the plaintiff-respondent No.1 has not merely filed a suit for declaration but he has also sought the relief of possession by way of mandatory injunction. The learned counsel for the appellant thereafter contended that the appellant-defendant being a bona fide purchaser was entitled to protect his possession as entry of the sale was not recorded in the revenue record. The learned Courts below have rejected this contention of the defendant-appellant by holding that witnesses to both the sale deeds were same and, therefore, it could not be believed that the appellant was not aware of the sale of the property earlier. It has also been noticed that the record of the sale was available in the office of the Registrar, which could be easily located by the appellant and his stand for bona fide purchase was rejected.

No question of law muchless substantial question of law has been raised in this appeal.

Dismissed.

20.11.2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**